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December 5, 2007

**via CM/ECF and US Mail**

Jeffrey K. Martin, Esquire
1508 Pennsylvania Avenue, Suite 1C
Wilmington, DE 19806

***Re: Barkes v. FCM, et al.***
***C.A. No. 06-104 JJF***

Dear Mr. Martin:

On December 4, 2007, I received copies of "Plaintiffs' Supplemental Response to the State Defendants' First Set of Requests for Production of Documents." (Notice of Service filed as D.I. 57). This letter is to formally object to your attempt to "supplement" discovery several months after the discovery cutoff[1], and even after summary judgment briefs have been completed and filed with the Court.

State Defendants, in their summary judgment reply brief, objected to Plaintiffs' attempt to rely on these very documents in Plaintiffs' Appendix at B-1-136. Defendants object to Plaintiffs' attempt to use these documents because they are not part of the discovery or Rule 56 record and, moreover, are not relevant to the individual case at bar, have not been opined upon by a witness, and would be inadmissible at trial. Plaintiffs cannot circumvent or cure these objections by a "supplementation" after discovery has closed and when the case is already at issue before the Court on summary judgment.

Very truly yours,

Stephani J. Ballard
Deputy Attorney General

SJB/jom

cc: Clerk of the Court (via CM/ECF)
Daniel L. McKenty, Esquire (via CM/ECF)

[1] August 31, 2007 (Scheduling Order, D.I.#17).